

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

December 19, 2003

DIVISION ONE

B168694 People (Not for Publication)
v.
Brian Chessmore

The judgment revoking probation is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

[illegible]

We dismiss the appeal.

Ortega, J.

We concur: Spencer, P.J.
Mallano, J.

B164193 People (Not for Publication)
v.
Juan B. Alvarez

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Mallano, J.

December 19, 2003 (Continued)

DIVISION ONE (Continued)

B155041 Jane Coe (Not for Publication)

V.

Steven J. Carey, et al.

The order of October 4, 2001, is affirmed. Respondents are awarded costs on appeal.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

DIVISION TWO

B166807 People (Not for Publication)

V.

Salazar

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

B163965 People (Not for Publication)

V.

Lee

The judgment is reversed.

Boren, P.J.

We concur: Nott, J.
Ashmann-Gerst, J.

DIVISION TWO (Continued)

B167591 Los Angeles County, D.C.S. (Not for Publication)
v.
Monique L.

The judgment is affirmed.

Doi Todd, J.

We concur: Nott, Acting P.J.
Doi Todd, J.

B162447 Notsu (Not for Publication)
v.
Eslambolipoor

The judgment is reversed. Appellant(s) to recover costs.

Doi Todd, J.

We concur: Nott, Acting P.J.
Ashmann-Gerst, J.

B161925 Burrito King, Inc. (Not for Publication)
v.
Department of Recreation and Parks

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

December 19, 2003 (Continued)

DIVISION TWO (Continued)

B160590 People (Not for Publication)
v.
Bankers Insurance Company

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Ashmann-Gerst, J.

[illegible]

The order under review is affirmed.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

B164475 Breslow (Not for Publication)
v.
Golden

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

December 19, 2003 (Continued)

DIVISION TWO (Continued)

B164496 People (Not for Publication)
v.
Massey

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Ashmann-Gerst, J.

DIVISION THREE

B162555 Katinka, Inc. (Not for Publication)
v.
Cataldo, et al.

The judgment is affirmed. Costs on appeal to Superior.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B163067 Lucas LLC, etc., et al. (Not for Publication)
v.
Spielman

The judgment is affirmed. Costs on appeal to plaintiffs.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

December 19, 2003 (Continued)

DIVISION THREE (Continued)

B165165 Bector (Not for Publication)
v.
L.A. County Metropolitan Transit Authority

The order of dismissal is reversed. Bector's proposed third amended complaint, stating a cause of action for equitable relief to set aside the judgment in Bector I, is deemed filed, and Bector may proceed with his cause of action based on extrinsic fraud. If the trial court determines that Bector has established extrinsic fraud, then it must vacate the judgment in Bector I and send the matter back to the MTA with directions to conduct a new disciplinary hearing so that a full and complete administrative record may be developed for use in any proceeding under Code of Civil Procedure section 1094.5 that may occur in the future. This matter is remanded for further proceedings consistent with the views expressed herein. Each party to bear its own costs on appeal.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B163991 Zakheim (Not for Publication)
v.
Express Media Group, etc., et al.

The judgment is affirmed. Costs on appeal to plaintiff.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B164916 Los Angeles County, D.C.S. (Not for Publication)
v.
W.H., et al.

The dependency court shall amend its disposition order to provide for individual counseling for H., and as so amended, the disposition order is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

B163966 People
 v.
 Johnston

Filed order denying petition for rehearing.

B158393 Roberti
 v.
 Andy's Termite & Pest Control

Filed order denying petition for rehearing.

B121917 Simon
 v.
 Sao Paolo U.S. Holding Company, Inc.

Filed order denying petition for rehearing.

B161643 Papen
 v.
 Callahan, McCune & Willis

Filed order denying petition for rehearing.

DIVISION FIVE

B170062 Helen H. (Not for Publication)
 v.
 Superior Court, Los Angeles County
 (DCFS, r.p.i.)

The petition is denied.

Turner, P.J.

We concur: Grignon, J.
 Mosk, J.

DIVISION FIVE (Continued)

B160455 Igebord Schmidt (Not for Publication)
 v.
 Suzanne W. Spahn

The judgment is affirmed. Costs are awarded to respondent.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B162018 Judy Roberts (Not for Publication)
 v.
 Kenneth P. Roberts

The judgment is affirmed. Respondent Attorney Roberts is awarded his costs on appeal.

Grignon, Acting P.J.

I concur: Armstrong, J.
I dissent: Mosk, J. (Opinion)

B162366 People (Not for Publication)
 v.
 Arcelia Chavez

Defendant's judgment is modified to include a \$5,000 restitution fine pursuant to Penal Code section 1202.45. The clerk of the superior court is directed to modify the abstract of judgment to reflect the award of 378 actual days of presentence credit, the imposition of a \$5,000 restitution fine pursuant to Penal Code section 1202.4, and the Penal Code section 1202.45 fine referenced above, and to forward the modified abstract of judgment to the Department of Corrections. As modified, the judgment is affirmed.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Mosk, J.

DIVISION FIVE (Continued)

[illegible]

The judgment is affirmed except in the following respects. The order directing that the Penal Code section 667, subdivision (a) (1) five-year enhancement run concurrently is reversed. The Penal Code section 667, subdivision (a) (1) five-year enhancement is to run consecutively. The order directing that the two Penal Code section 667.5, subdivision (b) one-year prior prison term enhancements to run concurrently to the principal offenses is reversed. The prior prison term arising out of case No. PA012554 is ordered stricken. After issuance of the remittitur, the trial court is to hold a hearing and either impose a consecutive one-year term on the remaining Penal Code section 667.5, subdivision (b) enhancement arising out of case No. LA011507 or strike it pursuant to Penal Code section 1385, subdivision (a). The amount of presentence credits for time actually served in custody prior to the imposition of sentence is increased to 367 days plus 55 days conduct credit, for a total of 422 days.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

B164705 People (Not for Publication)
v.
Rigoberto Onofre, et al.

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

December 19, 2003 (Continued)

DIVISION FIVE (Continued)

B166623 People (Not for Publication)
v.
Verndell H.

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION EIGHT

Court convened at 9:00 A.M.

Present: Cooper, P.J., Rubin, J., Boland, J. and Emma Jean Amos, Deputy Clerk.

Each of the following:

B166887 DCFS v. Sergio J.
B160117 People v. Britt
B161653 People v. Jackson
B163501 People v. Valdivia
B167079 DCFS v. Jaiver S.
B170382 Ruben H. v. SCLA (DCFS)
B160597 Curl v. Roe

Argument waived, cause submitted.

B159651 Patel
v.
Kaiser Permanente, et al.

Merits:
Argued by Arvind Patel appellant, in propria persona and by Brooks Marshall for respondent. Cause submitted.

DIVISION EIGHT (Continued)

B169049 In re David Troy Griffin on Habeas Corpus

Merits:

Argued by Dennis A. Fischer for petitioner and by Chung L. Mar, Deputy Attorney General for respondent. Cause submitted.

B163106 Alden
v.
Nelson

Merits:

Argued by Nick A. Alden for appellant and by Jeffrey M. Cohon for respondent. Cause submitted.

B163048 Timmons
v.
Manatt, Phelps, Phillips, LLP

Merits:

Argued by Keith R. Timmons appellant, in propria persona and by Brian D. Peters for respondent. Cause submitted.

B158103 Henowick
v.
Marymount College
Servicemaster Management Services

Merits:

Argued by Denise Brogna for appellant and by George Ordonez and Paul Vallone for respondents. In open court the parties were given the opportunity to locate the page number of the cross- complaint in the joint appendix, or consider filing a motion to augment the record. Cause submitted.

B157182 People
v.
Jerro

Oral argument has been continued to January 28, 2004, at 9:00 a.m.

DIVISION EIGHT (Continued)

B163710 LA County Professional Peace Officers'
 v.
 County of Los Angeles

Oral argument continued to January 28, 2004, at 9:00 a.m.

Court adjourned at 11:16 p.m.

B169130 Diana R., et al (Not for Publication)
 v.
 The Superior Court of the State of California for the County of Los
 Angeles
 Los Angeles County, D.C.S.

For the reasons set forth above, parents' petition is denied.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

B165044 People (Not for Publication)
 v.
 Carlos P.

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

B166147 People (Not for Publication)
 v.
 Robinson

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

December 19, 2003 (Continued)

DIVISION EIGHT (Continued)

B164197 Litof (Not for Publication)
v.
Edison, et al

The judgment is modified to make Edison Textiles, Inc., and Ruben Edison jointly and severally liable for the judgment's full amount. Appellant to recover his costs on appeal.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.

B154557 People (Not for Publication)
v.
Gonzalez, Jr.

The judgment is reversed and the cause is remanded for further proceedings.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.

(Not for Publication)

B166437 In re Henry H. a Person Coming Under the Juvenile Court Law
v.
Maria E., et al.
Los Angeles County, D.C.S.

The juvenile court's order denying the section 388 petition is reversed.

Flier, J.

We concur: Cooper, P.J.
Rubin, J.